

1 REMARKS/ARGUMENTS

2 Claims 1-13 were originally presented.

3 Claims 1-7 and 9-13 are rejected under 35 U.S.C. § 103(a) as being
4 unpatentable over U.S. Patent No. 6,329,920 to Morrison et al. (hereinafter
5 "Morrison") in view of U.S. Patent No. 6,647,376 to Farrar et al. (hereinafter
6 "Farrar").

7 Claim 8 is objected to as being dependent upon a rejected base claim, but
8 would be allowable if rewritten in independent form including all the limitations of
9 the base claim and any intervening claims.

10 Claim 14, which includes the elements recited by original Claim 8 and the
11 claims from which it depends, is currently added.

12 Claims 1-14 remain in this application.

13 This paper is being filed within five months of the mailing date of the
14 Office Action. Accordingly, a Petition for an Extension of Time and a two-month
15 extension fee, along with the fee for new Claim 14, are included with this filing.

16
17
18
19
20
21
22
23
24
25

35 U.S.C. § 103

Claims 1-7 and 9-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morrison in view of Farrar. Respectfully, applicants submit that the applied references neither teach nor suggest the claimed invention for at least three reasons.

First, the cited references fail to disclose a number of elements included in the independent claims. For example, **Independent Claim 1** recites:

"A system for distributing and activating a Radio Frequency Identification (RFID) Transponder at a point of purchase, the system comprising:

an RFID Transponder *Dispenser/Authorizer* (RTDA) apparatus *having a storage for a plurality of Transponders*, the plurality of Transponders in the storage, each Transponder having a unique ID code, at least one electronic data reader, and network access to a processor system; and

an RTDA application having customer data verification, electronic data and account data verification across the network at the processor, *an interface to the RTDA apparatus to control dispensing of Transponders*, and receiving an account verification code and an activation, confirmation code from the processor;

whereby the RTDA reads customer electronic account data, verifies same and verifies the account is valid, *dispenses a Transponder to a customer*, reads the Transponder ID code, and associates the Transponder ID code with the customer's electronic account data in a unique customer record in an RFID database, and receives an account activation confirmation code and displays confirmation of activation to the customer."

1 (Emphasis added.) Thus, as exemplified by **Independent Claim 1**, the claimed
2 invention includes a transponder dispenser, storage for a plurality of transponders,
3 and an interface for controlling the dispensing of transponders.

4 However, the cited references fail to disclose these elements. Morrison, the
5 primary reference describes only an RFID reader. More specifically, as stated in the
6 Office Action, Morrison describes “an apparatus and method for *reading* radio
7 frequency identification transponders used for *livestock identification*” (Office
8 Action, Part 4, Page 2; emphasis added). In support of rejecting Claims 1-7 and 9-
9 13, the Office Action specifically cites the Abstract, Column 1, Lines 24-54, Column
10 2, Lines 34-58, Column 4, Lines 30-67, and Column 5, Lines 19-60. However, none
11 of these cited portions of the reference, or any other portions of the reference,
12 describe anything other than an RFID tag *reader* specially adapter for monitoring
13 RFID tags attached to or otherwise implanted in *livestock*. For example:

14 Abstract, Lines 1-3: “A portable, durable, easy-to-use, safety-oriented, long-
15 life apparatus for *reading* radio frequency identification transponders”;

16 Column 1, Lines 24-27: “Radio frequency identification is a flexible,
17 integrated method for tracking, identifying, and monitoring *animals*,” where
18 the transponders are “*placed on an animal’s ear or other portions of the*
19 *animal’s body*”;

20 Column 2, Lines 35-37: “The *reader of the present invention* supports an
21 effective data collection and management methodology in the livestock
22 industry”;

23 Column 4, Lines 33-36: “The preferred identification is an RFID ear
24 tag Alternatively, the identification may be by means of an RFID
25 *implant, a rumen bolus, or a collar fitting on the neck or leg*; and

1 Column 5, Lines 19-20: “The *reader’s* long handle is designed to *increase*
2 *the distance between the user and livestock.*”

3 (Emphasis added.) The focus of Morrison is solely on a reader, specifically designed
4 for reading RFID tags attached to or implanted in livestock.

5 In contrast to Morrison, Farrar describes a “point-of-sale check authorization
6 method” that “inputs transaction and financial institution information from a check to
7 be authorized” (Abstract, Lines 1-3). Furthermore, as specifically cited by the Office
8 Action, then “the bank receives the transaction and MICR information . . . and
9 verifies that the account has sufficient funds to cover the transaction” (Column 10,
10 Lines 17-20). Thus, Farrar describes only a system for accessing information about a
11 particular transaction, and attempting to authorize the transaction based on
12 information read from a check presented by the customer.

13 Thus, the cited references do not, either alone or in combination, teach or
14 suggest a number of elements recited in **Independent Claim 1**. Neither reference
15 teaches or suggests a transponder dispenser, storage for a plurality of transponders,
16 or an interface for controlling the dispensing of transponders. Accordingly,
17 applicants submit that the cited references fail to disclose the elements recited by
18 Claim 1.

19 The other independent claims also recite elements that the cited references fail
20 to teach or suggest. **Independent Claim 4**, among other elements, recites “storage
21 for a plurality of Transponders,” “a touchscreen input device, and a dispenser
22 controller, at least one of the readers operable to read customer financial account data
23 for sending across the network to the processor system.” **Independent Claim 5**, a
24 method claim, recites, among other steps, “selectably dispensing a Transponder to
25 the customer,” and “processor activation of the Transponder ID by association of the

1 Transponder ID with the customer selected electronic account in a processor
2 database record such that the customer account may be dynamically charged
3 whenever the unique Transponder ID is associated with the customer database record
4 for payment." Because Morrison discloses only an RFID tag reader, and Farrar
5 teaches only a check authorization system, the cited references fail to teach a number
6 of elements recited in independent Claims 1, 4, and 5. Thus, applicants respectfully
7 submit that the cited references fail to provide a basis on which to find the claimed
8 invention unpatentable.

9 Second, it would not be obvious to one skilled in the art at the time of the
10 invention to combine Morrison with Farrar. As previously described at length,
11 Morrison concerns RFID tags physically attached to or implanted in *Livestock*. The
12 livestock are inventory, tagged with RFID transponders and tracked and monitored
13 as a result of the transponders joined to their bodies. On the other hand, Farrar,
14 concerns "A point-of-sale check authorization method" that "inputs transaction and
15 financial institution information from a check to be authorized" (Abstract, Lines 1-3)
16 using magnetic character ink recognition (MICR) obtainable from a check presented
17 by a would-be customer to determine whether the customer has sufficient funds in
18 his or her checking account to warrant authorization of the check (Column 10, lines
19 17-33).

20 Nowhere does Farrar describe the use of RFID tags. Respectfully, there is
21 nothing within the context of Morrison's RFID livestock inventory reader that would
22 lead one of ordinary skill in the art to combine it with a system for verifying financial
23 information obtainable from MICR information on a check presented by a customer.
24 Thus, applicants submit that the combining Morrison and Farrar not only is nothing
25 that one of ordinary skill in the art at the time of the invention would have thought to

1 do, but that Morrison teaches away from the possibility of a combination with Farrar.
2 Further, absent this motivation in the references, hindsight picking and choosing of
3 references based on the claims is prohibited.

4 Third, even though the cited references do not recite the elements included in
5 the independent claims, and it would not be obvious for one skilled in the art to
6 combine the teachings of Morrison and Farrar, combining the cited references still
7 fails to yield anything similar to the claimed invention. Independent Claims 1, 4, and
8 5, as recounted above, each recite elements that describe a system or a method for
9 selectively dispensing an RFID transponder. The use of RFID tags as disclosed by
10 Morrison is solely for purpose of associating identifiers with animals that can be
11 used to inventory those animals, whereas Farrar concerns verifying financial
12 information accessible via magnetic character ink recognition (MICR) from a check
13 presented by a customer. Very respectfully, attempting to combine Morrison with
14 Farrar would result in a system for querying financial information associated with an
15 RFID tag attached to or implanted in an animal to determine whether the animal has
16 access to sufficient funds to justify a financial transaction. Applicants submit that,
17 even impermissibly using hindsight, one of ordinary skill in the art would not be lead
18 to combine Morrison and Farrar such that the claimed invention would be
19 unpatentable over the applied references. Therefore, applicants submit that
20 **Independent Claims 1, 4, and 5** are patentable over the applied references.

21 In addition, **Dependent Claims 2 and 3** depend from Independent Claim 1,
22 and **Dependent Claims 6-13** depend from Independent Claim 5, each of which add
23 additional limitations to the independent claims from which they depend.
24 Accordingly, applicants submit that **Dependent Claims 2-3 and 6-13** are allowable

at the very least by virtue of their depending from patentable base claims, as well as for the additional elements they recite.

Claim Objections

Dependent Claim 8 is objected to on the basis that it depends from an unpatentable independent claim. The Office Action indicated that, if rewritten in independent form to include the elements recited by the base claim and any intervening claims, Claim 8 would be allowable. Applicants submit that new **Independent Claim 14** includes the elements of original Claim 8, as well as the elements of the claims from which Claim 8 originally depended. Thus, applicants submit that Claim 14 is now in condition for allowance.

CONCLUSION

All pending claims 1-14 are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, applicants respectfully request that the Examiner contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

Dated: May 5, 2005

By:

Frank J. Bozzo
Frank J. Bozzo
Reg. No. 36,756
LEE & HAYES, PLLC
(206) 315-4001 ext. 103